MONTANA LEGISLATIVE HISTORY

Chapter 286 1981

Bill H 519 S _____ Original bill & history / C

H. Committee on Human Svcs			S. Committee on Public Health Welfare & Safety		
Hearing Date(s)	Feb 02	✓ C	Hearing Date(s)	Mar 13	✓ C
		C		Mar 23	✓ C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HOUSE BILL NO. 517

INTRODUCED BY BARNHOUSE

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

IN THE HOUSE

January 27, 1981	Introduced and referred to Committee on Human Services.
February 4, 1981	Committee recommend bill do pass. Report adopted.
February 5, 1981	Bill printed and placed on members' desks.
February 6, 1981	Second reading, do pass.
February 7, 1981	Considered correctly engrossed.
February 11, 1981	Third reading, passed. Ayes, 97; Noes, 0. Transmitted to Senate.

IN THE SENATE

February 12, 1981	Introduced and referred to Committee on Public Health, Welfare, and Safety.
March 24, 1981	Committee recommend bill be concurred in. Report adopted.
March 25, 1981	Second reading, concurred in.
March 26, 1981	Third reading, concurred in. Ayes, 45; Noes, 4.

IN THE HOUSE

March 28, 1981	Returned from Senate. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 517

INTRODUCED BY Baldassari

BY REQUEST OF THE DEPARTMENT OF INSTITUTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT TO REPEAL THE LAW RELATING TO EUGENICAL STERILIZATION AND THE BOARD OF EUGENICS; REPEALING SECTIONS 2-15-2304 AND 53-23-101 THROUGH 53-23-105, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Repealer. Sections 2-15-2304 and 53-23-101 through 53-23-105, MCA, are repealed.

-End-

INTRODUCED BILL
HB 517

MINUTES OF THE HUMAN SERVICES COMMITTEE HEARING
FEBRUARY 2, 1981

The meeting of the Human Service Committee convened on February 2, 1981, in Room 103 of the Capitol at 12:30 p.m. with CHAIRMAN BUDD GOULD presiding. All members were present except REPS. BRAND and SEIFERT, who were excused.

HB 517

REP. BARDANOUVE opened the hearing on HB 517. He stated that the purpose of the bill was to repeal a law which was originally passed to provide for eugenical sterilizations and a board of eugenics. Now that the mental level of the patients at Boulder River School is much lower (than at the time the law was passed) patients cannot appear at hearings, therefore rendering the law obsolete. Also, REP. BARDANOUVE stated that the state might be in violation of civil rights having this law on the books; therefore, he recommends repealing it.

PROPONENTS:

NICK ROETERING, attorney for the department of SRS, stated that at present the patients at Boulder are so profoundly retarded that this law doesn't apply, as patients would not be able to request a sterilization.

OPPONENTS: There were none.

REP. BARDANOUVE closed the hearing on the bill.

HB 513

REP. MENAHAN opened the hearing on the bill, which relates to licensing and certificates of need of health care facilities.

PROPONENTS:

GEORGE FENNER, administrator of the hospital and medical facilities division, spoke as a proponent of HB 513 (EXHIBIT I). He also presented charts which more clearly explained his position.

RALPH GILDROY of the Montana Health Systems Agency, read printed material in favor of the bill (EXHIBIT II).

JUDY OLSON of the Montana Nurses' Association gave testimony in fav of the bill. (EXHIBIT III)

would enforce the cuts in funding and was told the DWHEW. REP. WINSLOW asked if all the provisions of the bill were necessary. FENNER felt that some were not, but that they were included to comply with federal regulations. REP. BARDANOUVE asked about federal funding in Louisiana, a state which has no CON law. FENNER said that Louisiana came "under different provisions" and the DWHEW chose not to remove the funds; however, the funds could be removed now, he said. REP. BARDANOUVE asked about the CON in other states. RUTLEDGE, of the MHA, said a survey had been taken on 14 states that did not meet the CON standards (see EXHIBIT VII). REP. BARDANOUVE asked if there was any relationship to our not having CON and our relatively low hospital costs. FENNER said "yes" in some instances, but has made costs higher in other cases he felt. STEWART felt hospital costs could be even lower, if it were not for CON requirements. He said scanners and other pieces of equipment were being bought because hospital administrations felt they had to "buy now" or lose the opportunity. REP. BENNETT asked if CON had contributed to lower health costs. DR. MC MAHAN said that the total health care costs must be considered. He felt that X-raying was one of the best diagnostic methods, yet his hospital's board of directors wouldn't allow the purchase of a CT scanner. Through CON, you can get any equipment or facilities, if you are willing to spend enough on attorneys' fees, he said. REP. WINSLOW asked if there were any figures on money spent to receive CONS. RUTLEGE said the only figures were from a study made 2 years ago. He said small hospitals had had projects turned down because they didn't have enough money to spend for attorneys. He said the budget for the State Health Planning and other agency cost nearly $1,000,000 to administer CON. REP. BARDANOUVE asked if any large hospitals were turned down for projects. FENNER said that Billings Deaconess had their plans modified though they weren't turned down. He said that Plains Hospital was turned down. REP. KEYSER asked why the nurses were in favor of the bill. JUDY OLSON said the threat of the loss of funds was the reason. REP. BARDANOUVE asked how this bill affected the Nursing Homes. REP. DEVLIN asked if the CON could be called "blackmail". FENNER said the threat was real, whether or not it was intended.

REP. SIVERTSEN asked what had been done to alert the Legislature to this "blackmail". FENNER said that reports had been issued by the DHEW that the state must conform. Statements have been placed in individual boxes for each legislator, he said.

REP. MENAHAN temporarily closed the hearing on HB 513.

EXECUTIVE SESSION
HB 517
REP. DEVLIN moved for a DO PASS. It was seconded and PASSED UNANIMOUSLY.

Senator Olson asked why did it take the dentist so long to discover the problem. No one could answer this question.

Representative Metcalf closed.

CONSIDERATION OF HOUSE BILL 517: Representative Francis Bardanouve of district 6, sponsor of House Bill 517, gave a brief resume of this bill. This bill is an act to repeal the law relating to eugenical sterilization and the Board of Eugenics. This bill would repeal the Board of Eugenics and the statutes relating to the sterilization of the mentally deficient. The board has been inactive for many years. The board was responsible for holding hearings on the application of sterilization. This application could be filed by the person to be sterilized or on behalf of that person. This board was created in 1969. 1971 was the last year the board received appropriations from the Legislature. The board has not met since in the early 1970's. The former bill is a past thing of America. It is obsolete.

Nick Rotering of the Department of Institutions stated that the reason this bill was requested the the Department of Institutions is because during the last several years there has been no need for a Board of Eugenics. The Board last met on May 19, 1972. In view of the new commitment and treatment acts for Warm Springs and Boulder River School and Hospital passed in 1975, adequate safeguards regarding individuals in institutions and their rights were clearly established. The population level of Boulder River School and Hospital residents is such that it is not feasible for these residents to come before the Board of Eugenics. The fact that the laws are still in the code books adds confusion in the private sector. Private physicians and attorneys are confused on whether or not a Board of Eugenics should be impanel for specific cases. But if it was the, laws could violate the in vidual's constitutional right under the Equal Protection Clause the United States Constitution. No monetary appropriations have been given since the 1971 legislature and therefore, is not subject to Sunset Review.

With no further proponents, Chairman Hager called on the opponen Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Norman stated that he has had several letters and phone calls about this matter. Senator Norman then asked how this procedure is gone about at the present time. Mr. Rotering stated that the person must be over 18 years of age and a hearin will be held on whether or not that person is competent.

Representative Bardanouve stated that at the present time there is not any board. The govenor has not appointed one in recent years.

Senator Himsl stated that the Board has been abandoned and the matter has been turned over to the courts.

Mr. Rotering stated that the Board has outlived its usefulness.

Representative Bardanouve closed by saying he hoped that the Committee would concur with this bill.

CONSIDERATION OF HOUSE BILL 504: Representative Jack Moore of district 41, sponsor of the bill gave a brief resume. This bill provides for the revision of the qualifications for the superintendent of the Galen State Hospital. The individual must have a minimum of three years full time hospital administration experience and must be either a physician or a person with a master's degree in hospital administration, business or health care, or human services. This is jsut another part of the reorganization and consolidation of the services at Galen State Hospital and Warm Springs State Hospital.

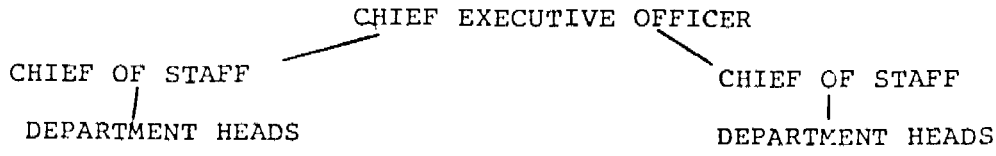
Curt Chisolm, representing the Department of Institutions, stood in support of the bill and reinerated what Representative Moore stated.

With no further proponents Chairman Hager called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Norman asked what the salary of the superintendent would be. This is unknown at the present time.

Senator Himsl asked if the chief executive officer would be over both institutions, and if both institutions would have a chief of staff.

Curt Chisolm explained that the chain of command for both institutions would be as follows:



HB 517 To Abolish the Board of Eugenics

"An Act to repeal Sections 5323-101 through 53-23-105 MCA which establishes and describes the functions of the Board of Eugenics. Also, Section 2-15-2304 MCA where the Board of Eugenics is referenced in executive reorganization code is repealed.

The reason the bill was requested by the Department is because during the last several years there has been no need for a Board of Eugenics. The Board last met May 19, 1972. In view of the new commitment and treatment acts for Warm Springs State Hospital, and Boulder River School and Hospital passed in 1975, adequate safeguards regarding individuals in institutions and their rights were clearly established.

Futher, the population level of Boulder River School and Hospital residents is such that it is not feasible for these residents to come before the Board of Eugenics.

The fact that the laws are still in the code books adds confusion in the private sector. Private physicians and attorneys are confused on whether or not a Board of Eugenics should be impaneled for specific cases. But if it was the laws could violate the individual's constitutional right under the Equal Protection Clause of the United States Constitution.

No monetary appropriations have been given since the 1971 legislature and therefore is not subject to Sunset Review."

DISPOSITION OF HOUSE BILL 504: Representative Moore is the sponsor of House Bill 504 which is an act to revise the qualification requirements for superintendent of the Galen State Hospital.

A motion was made by Senator Johnson that HB 504 receive a BE CONCURRED IN recommendation from the Committee. Motion carried with all Senators voting "yes" except Senator Olson who voted "no". Senator Johnson will carry the bill on the floor.

DISPOSITION OF HOUSE BILL 517: Representative Bardanouve is the sponsor of House Bill 517, which is an act to repeal the law relating to eugencial sterilization and the Board of Eugenics.

Senator Norman made a motion that House Bill 517 BE CONCURRED IN. Motion carried. Senator Norman will carry this bill on the floor.

DISPOSITION OF HOUSE BILL 554: Representative Bergene is the chief sponsor of House Bill 554. This bill is an act to provide for the certification of social workers; creating a State Board of Social Work Examiners and prescribing its powers and duties; establishing grounds and procedures for disciplinary proceedings; creating a communications privilege; and providing penalties for violations.

A motion was made by Senator Berg that HB 554 BE CONCURRED IN.

Senator Norman stated that most people doing social work do not qualify under this bill.

Senator Berg stated that there are some social workers that would really like to see this bill passed in our state right now.

Senator Norman stated that most of the social workers would be coming from out of state to work as that is where more of them are that have a masters degree in social work. There will be two grades of social workers and it will not accomplish what the bill really wants to do.

Senator Halligan stated that the bill is not focused enough.

STANDING COMMITTEE REPORT

MARCH 23, 19 81

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE & SAFETY

having had under consideration HOUSE Bill No. 517

BARDANOUVE (NORMAN)

Respectfully report as follows: That HOUSE Bill No. 517

4/0

~~DO PASS~~ BE CONCURRED IN

TOM HAGER
Chairman.

STATE PUB. CO.
Helena, Mont.